

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

SOLON PHILLIPS,

Plaintiff,

vs.

COMMISSION ON CHARACTER &
FITNESS and ANNIE GOODWIN,

Defendants.

CV 20-41-M-DLC-KLD

ORDER


Before the Court is the Findings & Recommendation of United States Magistrate Judge Kathleen DeSoto, entered on June 9, 2020. (Doc. 11.) Judge DeSoto recommends that the Court deny Plaintiff Solon Phillips' motion for default judgment and constructive motion for entry of default. (Doc. 10.) Phillips does not object to Judge DeSoto's recommendation.

Absent objection, the Court reviews Judge DeSoto's findings and recommendation for clear error. *See United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error is "significantly deferential" and exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

The Court finds no clear error here. Judge DeSoto's recommendation was based on Phillips' readily apparent failure to serve either defendant with a summons as required by Rule 4 of the Federal Rules of Civil Procedure. Following Judge DeSoto's recommendation and subsequent explanation of the process by which a pro se litigant may obtain a summons (Doc. 13), the Clerk of Court issued a summons for Defendant Annie Goodwin on June 15, 2020 (Doc. 14).

Accordingly, reviewing for clear error and finding none, IT IS ORDERED that the Court ADOPTS Judge DeSoto's Findings and Recommendation (Doc. 11) IN FULL. To the extent that the issue has not become moot, Phillips' motion for default judgment and his constructive motion for entry of default is DENIED.

Dated this 8th day of July, 2020.



Dana L. Christensen, District Judge
United States District Court